

who must, therefore, be permitted to support their own interests, and to prosecute the suit for themselves, leaving the representatives of the deceased creditors to come in and renew the prosecution of their claims as they may think proper. (b)

In ordinary cases, at common law, when a creditor dies pending a suit which he had instituted against his debtor, it devolves, as a duty, upon his executor or administrator to see, that it is seasonably revived and prosecuted with effect; and so too in this court. But in creditors' suits it would be attended with unnecessary; and, in many respects, insufferable delay and expense, to consider the whole suit as abated by the death of any one of the multitude of creditors who may have been associated together as plaintiffs; for there are not unfrequently instances in this court of creditors' suits in which there have been more than an hundred creditors admitted to come in and claim a right to participate in the distribution of the deceased debtor's estate: and therefore, where a creditor's bill has been filed by only one creditor, and he dies, after other creditors have come in, as the whole costs are here first paid out of the debtor's estate, the suit does not necessarily abate; but may be sustained and prosecuted by any creditor who has come in, as well as by any one of the surviving plaintiffs, where the bill has been filed by several; and the representatives of the deceased plaintiff or creditor, by merely filing the legal testimonials of their being clothed with that character, may be permitted to take his place as renewed parties without filing a bill of revivor. (c)

But although the suit cannot be suffered to abate, or to be even unreasonably delayed; because of the occasional dropping off, by death, or the payment of the claims of some of the troop of creditor plaintiffs, who, having a common interest, have therefore been permitted, or required to come in and make common cause in the pursuit of their claims; yet as to the defendant debtor, or his representatives, who hold the fund upon which the charge is made, the case is very different. It is obviously the interest of such defendants to have every unsound claim rejected; because, after all the creditors are satisfied, they are entitled to the surplus. And

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(b) 1 Eq. Ca. Abr. 3, p. 7; *Fallowes v. Williamson*, 11 Ves. 310; *Boddy v. Kent*, 1 Meriv. 361; *Burney v. Morgan*, 1 Cond. Chan. Rep. 183; *Houlditch v. Donegall*, 1 Cond. Chan. Rep. 249; *Mitf. Plea*. 59; 1 Fowl. Exch. Pra. 68; *Calvert on Parties*, 104, 107.—(c) *Boddy v. Kent*, 1 Meriv. 361; *Dixon v. Wyatt*, 4 Mad. 393; *Burney v. Morgan*, 1 Cond. Chan. Rep. 183; *Houlditch v. Donegall*, 1 Cond. Chan. Rep. 249; *Handford v. Storie*, 1 Cond. Chan. Rep. 414.